

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

MELVIN CLINE CAULEY,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 5:10-CV-332 (MTT)
)	
GREGORY MCLAUGHLIN,)	
)	
Respondent.)	
_____)	

ORDER

This matter is before the Court on the Recommendation to Grant (the “Recommendation”) of United States Magistrate Judge Charles H. Weigle. (Doc. 19). The Magistrate Judge, having reviewed the Respondent’s Motion to Dismiss (the “Motion”), recommends granting the Motion because the Petitioner’s petition seeking habeas corpus relief was not timely filed. The Magistrate Judge also stated that the “actual innocence” exception did not apply because the Petitioner had “presented nothing to indicate the existence of evidence to show that no reasonable juror would have convicted him.” Further, because the Petitioner has not made a substantial showing of the denial of a constitutional right, the Magistrate Judge recommends denying a certificate of appealability. The Petitioner filed an objection to the Recommendation (the “Objection”). (Doc. 20). Pursuant to 28 U.S.C. § 636(b)(1), the Court has thoroughly considered the Objection and has made a de novo determination of the portions of the Recommendation to which the Petitioner objects.

The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. The Motion is **GRANTED**. Any application for a certificate of appealability is **DENIED**.

SO ORDERED, this the 21st day of June, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT